Additions to pge 83 (cont'd)

625.3 Retail Commissions

This subaccount shall include commissions to agents unless such commissions are paid on a comparable basis to all entities, including resellers, that deliver new customers.

Note A: Carriers may record commission expenses as they are incurred or may amortize commissions over a period not greater than the subscription life of the average customer. If the carrier changes procedure, however, it must restate its commission expense to reflect the condition that would exist had the new procedure been in effect in all previous time periods.

Addition to page 84

627 General and Administration Expenses

* * *

Note C: This account shall be allocated between wholesale and retail operations in the same proportion as the wholesale-to-retail allocation of the underlying direct costs, or if no direct costs can be identified, with remainder of Account 401.

New page 87

644 Imputed Wholesale Charges

This account shall include the charges at tariffed wholesale rates for the cellular radiotelephone services sold by the carrier's retail operations or affiliates.

645 Royalty for Trademarked Name and Logo

This account shall include an imputed charge to the carrier's retail operaions for the use of any trademarked name, logo or other identifier belonging to the carrier, the carrier's parent or other affiliated organization.

NOTE: The amount of the royalty shall reflect the market value of the carrier's trademark as established by an independent trademark appraiser.

PROCEDURES FOR ANALYZING THE PROFITABILITY OF CELLULAR CARRIER WHOLESALE AND RETAIL OPERATIONS

A.	Investment Base		Wholesale		Retail
1.	300 Land		xxx		
2.	302 Buildings		xxx		xxx
3.	304 Leasehold Improvements		xxx		xxx
4.	305 Antennae		xxx		
5.	306 Power Equipment		xxx		
6.	307 Switching Equipment		xxx		
7.	308 Base Site Controller		xxx		
8.	309 Towers		xxx		
9.	310 RF Channel Equipment		xxx		
10.	312 Transmission Equipment		xxx		
11.	314 Vehicles		xxx		xxx
12.	316 Tools & Equipment		xxx		
13.	318 Office, Furniture & Equip.		xxx		xxx
14.	Total Plant in Service		xxx		xxx
15.	Less Accumulated Depreciation	-	xxx	-	xxx
16.	Equals Net Plant Investment	=	xxx	=	xxx
17.	Plus Working Capital	+	xxx[1]	+	xxx[2]
18.	Plus Unamortized Intangible Value		[3]		xxx
19.	Less Customer Deposits			-	xxx
20.	Plus Unamortized Commissions			+	xxx
21.	Equals Investment Base		xxx		xxx
22.	Minimum Rate of Return			*	14.75%
23.	Required Return			=	xxx
24.	Income Tax Factor			*	
25.	Equals Imputed Income Tax			=	xxx
26.	Required Return + Tax				xxx

[1] 30 days wholesale revenues.

[2] 60 days retail revenues.

[3] Excluded pursuant to Commission policy.

B.	Expenses		Wholesale	Retail
26.	610	System Maintenance	xxx	
27.	613	Depreciation	xxx	xxx
28.	615	Amortization-Leasehold	xxx	xxx
29.		Amortization-Commissions		xxx
30.	616	Amortization of Plant Acquisition & Intangibles	[4]	xxx
31.	617	Real Estate Acquisition Charges	xxx	xxx
32.	619	Telecommunications Direct Operations	xxx	
33.	621.1.	Customer Accounts & Service Wholesale	xxx	
34.	621.2	Customer Accounts & Service Retail		xxx
35.	623	Bad Debt Expense	xxx	xxx
36.	625.1	Sales Promotion & Advertising Wholesale	xxx	
37.	625.2	Sales Promotion & Advertising Retail		xxx
38.	625.3	Commissions		xxx
39.	627	General & Administrative	xxx	xxx
40.	631	Damages & Claims	xxx	xxx
41.	633	Pension & Benefits	xxx	xxx
42.	635	Rental Expense	xxx	xxx
43.	639	Other Taxes	xxx	xxx
44.	641	Gain or Loss on Cellular Plant	xxx	
45.	643	Expenses Charged Construction (CR)	(xxx)	
46.	644	Imputed Wholesale Charges to Retail		xxx
47.	645	Royalty for Trademarked Name or Logo	___	xxx
48.		Total Operating Expenses	xxx	xxx

[4]Excluded pursuant to Commission Policy.

	C. Revenues		Wholesale	Retail
49.	501 Retail Customer Revenues			xxx
50.	502.1 Wholesale Customer Revenues		xxx	
51.	502.2 Imputed Revenue from Retail Operations		xxx	
52.	503 Roamer Revenues		xxx	
53.	405 Commission Revenues		xxx	
54.	505 Other Operating Revenues		xxx	xxx
55.	Total Revenues		xxx	xxx

	D. Retail Analysis		Wholesale	Retail
56.	Retail Return & Tax Requirements (L26)			xxx
57.	Retail Operating Expenses (L48)			xxx
58.	Retail Break-even Revenue Requirement (l61-L62)			xxx
59.	Retail Revenues (L55)			xxx
60.	Retail Surplus or (Deficiency) (L59-L58)			xxx

	E. Wholesale Analysis		Wholesale	Retail
61.	Wholesale Revenue (L56)		xxx	
62.	Wholesale Operating Expenses (L48)	-	xxx	
63.	Wholesale Net Operating Income (L61-L62)	=	xxx	
64.	Imputed Income Tax Rate		14.75%	
65.	Imputed Income Taxes	=	xxx	
66.	Wholesale Net Income (L63-65)		xxx	
67.	Wholesale Investment Base (L21)		xxx	
68.	Wholesale Return on Investment (L66/67)		xxx	

(END OF APPENDIX B)

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

COMMISSION ADVISORY & COMPLIANCE DIVISION
Telecommunications Branch

RESOLUTION NO. T-14608
September 25, 1991

R E S O L U T I O N

RESOLUTION T-14608. US WEST CELLULAR OF CALIFORNIA, INC. ORDER REGARDING US WEST'S TEMPORARY TARIFF FILING TO MODIFY ITS RETAIL BASIC SERVICE RATES, INTRODUCE A RETAIL ANNUAL AGREEMENT SERVICE, AND REDUCE ITS WHOLESALE ANNUAL AGREEMENT ACCESS CHARGE.

BY ADVICE LETTER NO. 49, FILED ON JULY 8, 1991.

SUMMARY

US WEST Cellular of California, Inc. (USWC), by Advice Letter No. 49, filed July 8, 1991 under temporary tariff authority implemented the following:

1. A revised Retail Monthly Basic Service Plan with reductions in some peak hour and off-peak hour usage rates, ranging from $0.002 to $0.0323 per minute; and increases in four peak hour usage rates in the 181 minutes and above category, ranging from $0.0022 to $0.01 per minute;

2. A new Retail Annual Agreement Service almost identical to the usage rates of the Retail Monthly Basic Service Plan except for reductions in the 101-180 minutes of use category for both peak and off-peak hours;

3. A reduction in the monthly access charge for the Wholesale Annual Contract Service by $2.43 to maintain margin requirements as required by Commission Decision (D.) 90-06-025.

San Diego Cellular Communications, Inc. (SDCC) filed a protest to Advice Letter No. 49 on July 16, 1991. The Cellular Resellers Association, Inc. (CRA) filed a protest July 19, 1991. USWC filed its response to both protests on August 2, 1991. SDCC and CRA claimed that USWC had reduced margins in violation of Ordering Paragraph 15 of D.90-06-025. This Resolution grants the protests and suspends the tariff.

BACKGROUND

U S WEST Cellular of California, Inc. (USWC), by Advice Letter No. 49, filed July 16, 1991 under temporary tariff authority, modified several pricing plans to meet competition. The usage rate changes are as follows:

1. Retail Monthly Basic Service Usage Charges

A. Present

No. of Units	Peak First 180 Mins.	Peak Over 180 Mins.	Off-Peak
1	.4000	.3500	.2000
2- 7	.3880	.3395	.1940
8-23	.3800	.3325	.1900
24-49	.3740	.3272	.1870
50 +	.3700	.3237	.1850

B. Proposed

No. of Units	Peak 0-100 mins.	Peak 101-180	Peak 181 +	Off-Peak 0-100 mins.	Off-Peak 101-180	Off-Peak 181 +
1	.4000	.3800	.3600*	.2000	.1900	.1800
2- 7	.3880	.3686	.3492*	.1940	.1843	.1746
8-23	.3660	.3477	.3294	.1830	.17385	.1647
24-49	.3660	.3477	.3294*	.1830	.17385	.1647
50 +	.3660	.3477	.3294*	.1830	.17385	.1647

* signifies rate increase

2. New Retail Annual Agreement Plan Usage Charges

No. of Units	Peak 0-100 mins.	Peak 101-180	Peak 181 +	Off-Peak 0-100 mins.	Off-Peak 101-180	Off-Peak 181 +
1	.4000	.3700	.3600	.2000	.1850	.1800
2- 7	.3880	.3589	.3492	.1940	.17945	.1746
8-23	.3660	.33855	.3294	.1830	.169275	.1647
24-49	.3660	.33855	.3294	.1830	.169275	.1647
50 +	.3660	.33855	.3294	.1830	.169275	.1647

3. Wholesale Annual Contract Service Access Charges

	Present	Proposed
Total Access Nos. 100 or less	$26.60	$26.60
Total Access Nos. over 100	24.60	22.17

To maintain the margin requirements, USWC reduced one element in the wholesale access. There were no changes in the wholesale usage charges, peak or off-peak.

USWC filed the tariff as a "temporary tariff" since the offering will result in less than a 10% decrease in the company's average retail customer bill, and thus can be made effective on the date filed pursuant to their tariff Rule No. 15, Temporary Tariff Authority, as authorized by Resolution T-14267, dated January 15, 1991.

D.90-06-025, as modified by D.90-10-047 states that:

(1) Absent any protest to the tariff filing within the statutory 20-day protest period, the temporary status of the tariff shall expire and it shall be classified as a permanent tariff pursuant to the terms of the tariff provisions.

(2) If a protest is filed, the tariff shall remain a temporary tariff until the protest has been resolved or by order of the Commission.

This decision provides that temporary tariffs be used only for rate decreases and cannot be used to reduce the current margins between the wholesale and retail rates or for price increases. Carriers may file temporary tariffs for promotional offerings with a set expiration date; the expiration of such a tariff will not require additional approval.

NOTICE/PROTESTS

Public notice that USWC filed Advice Letter No. 49 to modify several pricing plans appeared in the California Public Utilities Commission's July 9, 1991 Daily Calendar. In addition, copies of USWC's Advice Letter No. 49 were mailed to competing utilities, adjacent utilities, and known interested parties in accordance with General Order (G.O.) No. 96-A, Section III.G.

On July 16, 1991, SDCC protested USWC's Advice Letter No. 49 on the grounds that it will cause unlawful reductions in the retail margin and inhibit retail-level competition, thus violating D.90-06-025 and Sections 453 and 532 of the Public Utilities Code (PU Code).

SDCC's main arguments are presented below:

1. The reduction in retail margin is evident as shown in the following illustrative examples for both USWC's Monthly Program and Annual Agreement Plan:

Present Monthly Plan:
(Using 200 minutes/month example; small reseller)

1 Unit		8-23 Units	
Access Charge	$ 35.00	Access Charge	$ 30.00
Usage Charge			
Peak 180 mins. x .4000	72.00	Peak 180 x .38	68.40
Off-Peak 20 mins. x .2000	4.00	Off-Peak 20 x .19	3.80
Total Revenue	$111.00	Total Revenue	$102.20
Cost	$ 89.02	Cost	$ 89.02
Margin	$ 21.98	Margin	$ 13.18
	24.7%		14.8%

Proposed Monthly Plan:

1 Unit		8-23 Units	
Access Charge	$ 35.00	Access Charge	$ 30.00
Usage Charge			
Peak 180 mins. x .3600	64.80	Peak 180 x .3294	59.29
Off-Peak 20 mins. x .1800	3.60	Off-Peak 20 x .1647	3.29
Total Revenue	$103.40	Total Revenue	$ 92.58
Cost	$ 89.02	Cost	$ 89.02
Margin	$ 14.38	Margin	$ 3.36
	16.2%		3.8%

In the above monthly examples, the margin decrease for 1 unit (from $21.98 to $14.38) is 35% and for 8-23 units (from $13.18 to $3.36) is 75%.

Proposed Retail Annual Plan:

1 Unit		8-23 Units	
Access Charge	$ 35.00	Access Charge	$ 30.00
Usage Charge			
Peak 180 x .36 x .95	61.56	Peak 180 x .3294 x .95	56.33
Off-Peak 20 x .18 x .95	3.42	Off-Peak 20 x.1647 x.95	3.13
Total Revenue	$ 99.98	Total Revenue	$ 89.46
Cost	$ 89.02	Cost	$ 89.02
Margin	$ 10.96	Margin	$ .44
	12.3%		0.5%

The new retail annual plan, being a more economical plan will lower the retail margin further. Any customer switching from the monthly to the annual plan will bring about a reduction in the reseller's margin.

Advice Letter No. 49 violates Ordering Paragraph No. 15 of D.90-06-025 because it creates a reduction in the current margin between wholesale and retail rates.

2. Since USWC's Advice Letter No. 49 affects the retail margin, it violates D.90-06-025 which states that retail divisions of carriers be compensatory. In the five years of USWC's operation, the retail division has lost no less than 3 million dollars per year. USWC's retail operation ended 1990 with a loss of $3,179,622. Any reduction in the retail margin will simply increase the losses.

CRA joined SDCC's protest and reiterated that USWC's Advice Letter No. 49 will cause substantial reductions in the retail margin and again pointed out that USWC's retail arm is presently operating in a noncompensatory fashion.

Claiming that they received the protests on an untimely basis, USWC responded to the protests on August 2, 1991. They indicated that the changes which basically grant discounts to retail customers via a cumulative airtime and a third airtime tier for annual customers maintained the existing margin since there is a corresponding reduction in the wholesale access charge for annual customers. USWC presented computations with assumptions made in connection with Advice Letter No. 49.

DISCUSSION

SDCC and CRA presented the effects of USWC's Advice Letter No. 49 on the margin by using as samples a 1-unit customer and a subscriber falling in the 8-23 units category. On the other hand, USWC submitted under the provisions of G.O. 66-C a different set of assumptions used in the revenue calculations for Advice Letter No. 49. The assumptions included the percentage of customers who will accept the standard basic monthly service; the percentage of customers who will accept the new annual agreement; and the percentage of wholesale customers who will accept the new annual agreement.

In spite of USWC's assumptions in calculating revenue, we still find validity in SDCC's and CRA's presentation that a change in margin will occur as a result of USWC's Advice Letter No. 49. We also find that any variance in USWC's assumptions can create a reduction in the current retail margin. USWC's claim that modification of one element in the wholesale access charge equalizes modifications in the retail usage rates is not reasonable. Rate changes involving different elements (e.g., retail usage charge versus wholesale access charge) could become contentious. Further, a usage rate is based on the number of minutes used, while an access charge is based on the number of access numbers ordered.

Recognizing that any deviation from USWC's assumptions will create a change in the retail margin, Advice Letter No. 49 does not fall within the intent of D.90-06-025 for advice letters to be filed under temporary tariff authority. D.90-06-025 states that until a revised USOA is put in place by further Commission decision, carriers shall not use temporary tariffs to make rate changes that reduce the current margins between wholesale and retail rates. Rate changes as discussed in D.90-06-025 include rules, regulations, and other provisions necessary to offer service to end users. Advice Letter No. 49 filed under temporary tariff authority is therefore suspended.

Resolution T-14627 which granted USWC temporary tariff authority clearly states in its Ordering Paragraph No. 4 that:

> "U S West Cellular of California shall not use temporary tariffs to make rate changes that reduce the current margins between wholesale and retail rates until a revised USOA is put in place by further Commission Decision."

Ordering Paragraph No. 15 of D.90-06-025 mandates that individual facilities-based carriers shall not deviate from the current retail margin until cost-allocation methods are adopted and implemented as part of the cellular USOA unless they can demonstrate through an advice letter filing that the retail operation will continue to operate on a break-even or better basis with proposed rate changes that impact the mandatory retail margin.

Until recently the Commission has not been faced with controversial advice letters involving reductions in margin. That is primarily because the facilities-based carriers always adjusted their wholesale rate elements by the same amount as the adjustments in their retail rate elements. Recent innovative plans from the industry, however, have started deviating from that practice, which makes it extremely difficult for the Commission and its staff to evaluate the validity of protests alleging reductions in margin without going to hearing.

All these problems regarding reductions in margins will be eliminated shortly with the issuance of the USOA decision. Until that time, the facilities-based carriers are put on notice that all reductions in retail rate elements shall have an equal reduction to the corresponding wholesale rate elements.

Another issue raised by Advice Letter No. 49 is that it also requests a rate increase. USWC raised usage rates which, even with the reductions in other rates, could result in rate increases for individual customers.

USWC in raising rates has failed to comply with Ordering Paragraph 9 of D.90-06-025 which states that:

> A cellular carrier seeking an increase in rates shall substantiate its request in an advice letter filing and shall provide:
>
> a. Market studies based specifically on data within its respective MSA.
>
> b. Actual return on investment data for its prior 3 calendar years.
>
> c. Projected return on investment based on its proporsed rates.
>
> d. Explanation of any major change (50 basis points) in the projected return on investment over the prior 3-year recoreded average.
>
> e. Cost-support data as requested by Commission staff.

Advice Letter No. 49 incorporated rate <u>reductions</u> and rate <u>increases</u> in some elements, which places the filing in a contentious situation. This is not allowed under temporary tariff authority. Any series of increases and decreases in a new plan which could result in an increase to customers should comply with Ordering Paragraph 9 of D.90-06-025.

<u>FINDINGS</u>

1. USWC's Advice Letter No. 49 will cause a reduction in its retail margins. A temporary tariff filing is not the appropriate vehicle to promote an offering that will reduce the current margins between wholesale and retail rates.

2. Ordering Paragraph No. 4 of Resolution T-14267 prohibits USWC to use temporary tariffs to make rate changes that reduce the current margins between wholesale and retail rates until a revised USOA is put in place.

3. D.90-06-025 states that rate changes (including rules, regulations, and other provisions necessary to offer service to end users) that would reduce margins shall be filed as advice letters for approval by Commission resolution. To gain Commission approval, the carrier must make a showing that the reduction in retail margin will still make the retail operation function on a break-even or better basis. Because of the difficulties of CACD in verifying compliance with Ordering Paragraph 15, the reductions in retail rate elements should have an equal reduction to the same wholesale rate element until the USOA system is in place.

4. In the interim until the USOA is in place, it is not permissible to make rate changes that reduce the current margins between wholesale and retail rates using temporary tariff authority or regular advice letter.

5. CACD should have the authority to reject temporary tariff filing which does not comply with the margin requirements.

6. No rate increases in any form should be allowed under temporary tariff status or regular advice letter until the USOA is in place.

THEREFORE, IT IS ORDERED that:

1. Advice Letter No. 49, filed under temporary tariff authority is suspended effective September 25, 1991.

2. The protest of San Diego Cellular Communications, Inc. is granted.

3. The protest of Cellular Resellers Association, Inc. is granted.

4. CACD is granted authority to reject filings that affect the current margin, element by element, until the Cellular Phase III Decision or USOA is issued.

5. US WEST Cellular of California, Inc. is reminded to observe the mandates of Resolution T-14267.

The effective date of this Resolution is today.

I hereby certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on September 25, 1991. The following Commissioners approved it:

NEAL J. SHULMAN
Executive Director

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

COMMISSION ADVISORY & COMPLIANCE DIVISION
Telecommunications Branch

RESOLUTION NO. T-14607
September 25, 1991

R E S O L U T I O N

RESOLUTION T-14607. US WEST CELLULAR OF CALIFORNIA, INC. ORDER REGARDING US WEST'S TEMPORARY TARIFF FILING TO INTRODUCE A PROMOTIONAL "CASH BACK" OFFER TO WHOLESALE AND RETAIL CUSTOMERS.

BY ADVICE LETTER NO. 48, FILED ON JUNE 21, 1991.

SUMMARY

US WEST Cellular of California, Inc. (USWC), by Advice Letter No. 48, filed June 21, 1991 under temporary tariff authority, introduced a promotional "cash back" offer to wholesale and retail customers. This advice letter implemented the following:

1. For new subscribers or current customers requesting additional lines of service between June 21, 1991 and September 30, 1991, a $400 check or credit to their account will be provided after 36 months of uninterrupted service.

2. For resellers who sign up new subscribers or current customers requiring additional lines of service between June 21, 1991 and September 30, 1991, a $110.27 credit for each activation will be provided if the service remains active for a miminum of 120 days.

The Cellular Resellers Association, Inc. (CRA) filed a protest to Advice Letter No. 48 on June 28, 1991. USWC filed its response to CRA's protest on July 3, 1991. The protest claimed that USWC had reduced margins in violation of Ordering Paragraph 15 of Commission Decision (D.) No. 90-06-025. This Resolution grants the protest and suspends the tariff.

BACKGROUND

U S WEST Cellular of California, Inc. (USWC), by Advice Letter No. 48, filed June 21, 1991 under temporary tariff authority, promoted a "cash back" offering available to wholesale and retail customers for the period June 21, 1991 through September 30, 1991. In this promotion, a new retail subscriber or a current customer signing for additional lines of service (provided that such service remains active for a period of 36 months), will receive a $400 check or a credit to their account after the 36th month. Resellers who sign up new customers or a current customer signing for additional lines of service (provided that such service remains active for a minimum of 120 days), will receive a credit in the amount of $110.27 after the 120th day. The $110.27 amount was calculated based on the present value of $400.00 and USWC's customer disconnect rate over a period of 36 months.

USWC filed the tariff as a "temporary tariff" stating that the offering will result in less than a 10% decrease in the company's average retail customer bill, and thus can be made effective on the date filed pursuant to their tariff Rule No. 15, Temporary Tariff Authority, as authorized by Resolution T-14267, dated January 15, 1991.

D.90-06-025, as modified by D.90-10-047 states that:

(1) Absent any protest to the tariff filing within the statutory 20 day protest period, the temporary status of the tariff shall expire and it shall be classified as a permanent tariff pursuant to the terms of the tariff provisions.

(2) If a protest is filed, the tariff shall remain a temporary tariff until the protest has been resolved or by order of the Commission.

This decision provides that temporary tariffs be used only for rate decreases and cannot be used to reduce the current margins between wholesale and retail rates. Carriers may file temporary tariffs for promotional offerings with a set expiration date; the expiration of such a tariff will not require additional approval.

NOTICE/PROTESTS

Public notice that USWC filed Advice Letter No. 48 to introduce the promotional "Cash Back" appeared in the California Public Utilities Commission's June 25, 1991 Daily Calendar. In addition, copies of USWC's Advice Letter No. 48 were mailed to competing utilities, adjacent utilities, and known interested parties in accordance with General Order (G.O.) No. 96-A, Section III.G.

On June 28, 1991, CRA protested USWC's Advice Letter No. 48 on the grounds that it will cause unlawful reductions in the retail margin and inhibit retail-level competition, thus violating D.90-06-025 and Sections 453 and 532 of the Public Utilities Code (PU Code).

CRA's protest is summarized as follows:

- o The $400 cash rebate to any new retail customer after 36 months of uninterrupted service and the $110.27 wholesale rebate after 120 days of service do not allow the reseller to compete effectively.
- o Advice Letter No. 48 violates Ordering Paragraph No. 15 of D.90-06-025 because it creates a reduction in the current margins between wholesale and retail rates.

USWC responded to CRA's protest on July 3, 1991. The response is summarized below:

- o The promotional offering is a plan to attack the continuing problem of customer churn, by providing a rate incentive to keep the customers in service for 36 months.
- o USWC assumed a 3% per month disconnect rate. This assumption results in 33.4% of the new customers being eligible for the $400 credit after 36 months. USWC believes that the disconnect rate experienced by the resellers for new customers will be the same rate that USWC expects for its new retail customers.
- o If resellers were to place $110.27 in a 7% bank account for each new number activation during the promotion period, it would have a fund after 36 months sufficient to pay $400 credit to the <u>remaining customers</u>.
- o The reseller does not have to match USWC's retail offer; he can keep the $110.27 or use it to support decreases in current monthly rates. If the reseller chooses not to match USWC, he is $110.27 ahead of the game for every new number activation during the promotion period.
- o CRA's protest is without merit and should be rejected.

USWC claims that based on the proposed cash back amounts, the margin between wholesale and retail does not decrease. On the other hand, CRA claims that in order to match USWC's offer, a reseller would have to provide the $400 rebate to each retail subscriber receiving service for 36 months. After the $110.27 wholesale rebate from USWC, the reseller loses $289.73 for each such subscriber, or $8.05 per month of service. San Diego Cellular Communications, Inc. a reseller that would be affected by USWC's proposed revisions maintains that the $110.27 would have to earn an interest rate of 25.99% compounded annually to break even at the 1.47% monthly churn rate it experiences.

DISCUSSION

One of the issues before the Commission is whether a $110.27 wholesale rebate (which was arrived at by getting the present value of $400 at an assumed percentage cost of capital and a calculated disconnect rate over 36 months) is at least equivalent to the $400 retail rebate to ensure there is no margin reduction.

In order not to deviate from the current mandatory retail margin pursuant to D.90-06-025, churn rates for USWC's resellers would have to be reasonably uniform, constant, and predictable to assure no margin reduction. Yet it is obvious that future churn rates and disconnect rates cannot be predicted. Even if they could be predicted, there is no evidence to assume what if any, correlation exists between the number of customers completing 36 months of uninterrupted service and the churn rate. And based on CACD's file on temporary tariff authority, it is evident that churn rates vary considerably between USWC and its resellers. To further point out the dispersion, Finding of Fact No. 130 in D.90-06-025 states that resellers churn rates range from a low of 2 percent to a high of 35%. Resellers with different churn rates will be affected differently.

There are other problems in the assumptions USWC uses in its analysis. One is that USWC uses its own historic 3% disconnect rate, which does not take into account any future reduction in disconnect rates due to the plan, although it insists that reduction of the disconnect rate is a primary reason for the plan. Another is USWC's argument that placing the $110.27 in a 7% bank account for each new number activation during the promotion period will generate sufficient funds after 32 months to pay a $400 credit to the remaining customers. This presumes that the reseller gets $110.27 for each new activation. However, the disconnection rate during the first four months should be considered in computing the resellers' rebate. Each customer who discontinues service within the 120-day period means $110.27 less for the reseller.

Since any deviation from USWC's assumptions will create a change in the retail margin, Advice Letter No. 48 does not fall within the intent of D.90-06-025 for advice letters which can be filed under temporary tariff authority. D.90-06-025 requires that until a revised USOA is put in place by further Commission decision, carriers <u>shall not use temporary tariffs to make rate changes that reduce the current margins between wholesale and retail rates</u>. Rate changes, as described/discussed in D.90-06-025 include rules, regulations, and other provisions necessary to offer service to end users. Advice Letter No. 48, filed under temporary tariff authority will therefore be suspended.

ALJ/MFG/pc *

Mailed

JUN 13 1990

Decision 90-06-025 June 6, 1990

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's own motion into the regulation of cellular radiotelephone utilities.	I.88-11-040 (Filed November 23, 1988)
And Related Matters.	Application 87-02-017 (Filed February 6, 1987) Case 86-12-023 (Filed December 12, 1986)

(See Appendix A for appearances.)

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INDEX

INTERIM OPINION

Summary

This opinion reflects the result of a comprehensive review of the cellular regulatory framework which has undergone little change since it was established in 1984. The changes to the cellular regulatory framework adopted in this interim opinion are made to enhance cellular competition and to encourage innovative and quality cellular services. The major regulatory changes adopted in this interim opinion are:

a. Classifying cellular service as a discretionary service.

b. Detariffing enhanced cellular services.

c. Relaxing facilities-based carriers' and resellers' tariff requirements.

d. Adopting new pricing flexibility for duopoly carriers and resellers.

e. Requiring carriers to pay access charges for only the actual components of the local loop they used to initiate and/or to complete a call.

f. Eliminating mandatory margin between wholesale and retail rates.

g. Classifying resellers not associated with a facilities-based carrier as nondominant telecommunications carriers.

h. Establishing a "large-user" tariff for organizations and entities not intending to use cellular service for their own use or for resale.

In addition, five issues are deferred pending further analysis from interested parties. These issues are:

a. The ability of resellers to perform switching functions currently provided by the local exchange companies.

b. A streamlined certification process for facilities-based carriers located in the rural service areas (RSAs).

c. The preemption of retail restrictions by the Federal Communications Commission (FCC).

d. Duopoly carriers reporting requirements that will enable us to assess their utilization and expansion of the cellular radio spectrum.

e. Modify the Cellular Uniform System of Accounts (USOAs) to include cost-allocation methods for a carrier's wholesale and retail operations.

This decision reflects a basic philosophical direction to rely on competitive forces to set prices for cellular service and to promote the most rapid expansion of service and use of new technology that is reasonably possible. Regulatory protections sufficient to control the potential harmful effects of the duopoly market structure are adopted and will be enforced. In particular, a requirement that carriers expand their systems as rapidly as possible and price low enough to fill that capacity will assure substantial decreases in the price of cellular service when digital technology is put into use, and should continue to force price decreases as continued advances in technology make more and more service available.

This decision also adopts a series of protections to assure fair competition in the retail cellular market without raising prices to consumers to protect any particular class of service providers.

Background

This investigation was opened on November 23, 1988 to determine whether the cellular radiotelephone regulatory framework established in the 1983 Los Angeles and San Francisco cellular market certificate proceedings is meeting Commission objectives and to determine whether the cellular regulatory framework should be changed. All facilities-based cellular radiotelephone utilities, cellular resellers, and local exchange carriers (LECs) providing interconnection with local exchange networks for cellular carriers were named respondents to this investigation.

Pursuant to the investigation, Application (A.) 87-02-017 and Case (C.) 86-12-023 were consolidated into the investigation because they raised generic issues. These generic issues are whether cellular carrier affiliates should be prohibited from reselling in markets in which the cellular carrier provides retail service (A.87-02-017), and whether the payment of commissions prohibit cellular resellers from entering the cellular market and operating a viable resale business (C.86-12-023).

This investigation was bifurcated into two phases, both of which are addressed in this opinion. The first phase addresses generic regulatory goals and the second phase addresses specific regulatory policies for cellular wholesalers and resellers. In each phase, respondents and interested parties (parties) were requested to comment on specific questions. In all, there were 62 specific questions. Although this opinion will not address each individual question, responses to these questions are considered and incorporated in the generic issue, as deemed appropriate.

Parties may note a certain degree of overlap between issues discussed both in Phase I and Phase II. In each case, the more specific policy discussion and conclusions will be found in the Phase II sections in the latter half of this decision.

It is worth revisiting the broad background of this industry and its regulation to set an overall context for the policies set forth in this decision. When the FCC licensed the original cellular carriers in California, we faced a broad strategic choice. On the one hand, we could have treated cellular carriers as monopolists and set and enforced strict cost of service rates. However, we were uncertain as to the actual competitiveness